



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

MEMORIAL HERMANN HOSPITAL SYSTEM
3200 SOUTHWEST FWY STE 2200
HOUSTON TX 77027-7533

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

Carrier's Austin Representative Box

Box Number 54

MFDR Tracking Number

M4-08-1667-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier has denied this claim maintaining that they did not receive the bills within 95 days. The Carrier's position is without merit. Texas Mutual's own documentation demonstrates that the claim was received in their offices at least by December 14, 2006, well within the 95 day time frame anticipated in the rules. On request for reconsideration, Texas Mutual chose to uphold its denial in the face of the indisputable evidence... My client initially requested reconsideration of its bill on July 20, 2007 which was denied by the carrier on August 8, 2007. A copy of the denial EOB is included herein, as is evidence from the hospital's business records indicating that the first request for reconsideration was sent, received and denied... Memorial Hermann should receive higher reimbursement rates for trauma and burn cases due to the unforeseen level of treatment and care necessary for major trauma and burn victims, for providing a well trained staff capable of handling major trauma and burns, and for providing the plant, facilities and services available to provide that level of care... The hospital billed its usual and customary charges in the total amount of \$267,994.62. Due to the unusually extensive services and supplies provided for this patient's care and treatment, the hospital's usual and customary charges for room and board, operating room, ancillary services and supplies and drug charges should be paid at a fair and reasonable rate. Since the carrier did not perform an audit of the charges, Requestor submits that a fair and reasonable rate for treatment of this injured employee is the usual and customary charges incurred."

Amount in Dispute: \$267,994.62

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor submitted its bill to Texas Mutual where it was reviewed 12/18/06. At that time Texas Mutual concluded the bill was incomplete and it was returned to the requestor 12/18/06. (Exhibit 1)... Apparently, the requestor then did nothing with this information. Texas Mutual states this because the same bill was submitted again with the incorrect information where it was received 3/10/07, i.e. past the 95th day... However, even if it was received prior to the 95th day the bill still would have been returned as incomplete... Texas Mutual reviewed the requestor's DWC-60 packet for any information that would provide an extenuating circumstance not only addressing the lateness of the bill but its incompleteness as well. No such explanation was provided... Texas Mutual contacted the requestor's agent 11/28/07, in a gesture of good will, and offered to settle the dispute at the current Medicare IPPS rate, which Texas Mutual believes is fair and reasonable. Medicare would pay approximately \$57K. The requestor's agent, though, declined by demanding approximately 85% of bill charges."

SUMMARY OF FINDINGS

| Date(s) of Service | Disputed Services | Amount In Dispute | Amount Due |
|---------------------------------------|--------------------|-------------------|------------|
| November 10, 2006 to December 6, 2006 | Inpatient Services | \$267,994.62 | \$0.00 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.2 sets forth definitions of words and terms related to medical billing and processing.
3. 28 Texas Administrative Code §133.10 sets out the required billing forms and formats for submitting medical bills.
4. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
5. 28 Texas Administrative Code §133.200 sets out the procedures for an insurance carrier to return an incomplete medical bill to the health care provider.
6. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
7. 28 Texas Administrative Code §134.401 sets out the fee guideline for acute care inpatient hospital services.
8. 28 Texas Administrative Code §134.1 provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.
9. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
10. This request for medical fee dispute resolution was received by the Division on November 8, 2007.
11. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - CAC-29 – THE TIME LIMIT FOR FILING HAS EXPIRED.
 - 731 – 134.801 & 133.20 PROVIDER SHALL NOT SUBMIT A MEDICAL BILL LATER THAN THE 95TH DAY AFTER THE DATE OF SERVICE. FOR SERVICE ON OR AFTER 9/1/05
 - CAC-18 – DUPLICATE CLAIM/SERVICE.
 - 224 – DUPLICATE CHARGE.

Findings

1. This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of former 28 Texas Administrative Code §134.401(c)(5)(A), which requires that when "Trauma (ICD-9 codes 800.0-959.50)" diagnosis codes are listed as the primary diagnosis, reimbursement for the entire admission shall be at a fair and reasonable rate. Review of box 67 on the hospital bill finds that the principle diagnosis code is listed as 806.26. The Division therefore determines that this inpatient admission shall be reimbursed at a fair and reasonable rate pursuant to Division rule at 28 Texas Administrative Code §134.1 and Texas Labor Code §413.011(d).
2. Texas Administrative Code §134.1, effective May 2, 2006, 31 *Texas Register* 3561, requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection §134.1(d) which states that "Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available."
3. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

4. 28 Texas Administrative Code §133.307(c)(2)(G), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable." Review of the submitted documentation finds that:

- The requestor's position statement asserts that "The hospital billed its usual and customary charges in the total amount of \$267,994.62. Due to the unusually extensive services and supplies provided for this patient's care and treatment, the hospital's usual and customary charges for room and board, operating room, ancillary services and supplies and drug charges should be paid at a fair and reasonable rate. Since the carrier did not perform an audit of the charges, Requestor submits that a fair and reasonable rate for treatment of this injured employee is the usual and customary charges incurred."
- The requestor did not provide documentation to demonstrate how it determined its usual and customary charges for the services in dispute.
- The Division has previously found that "hospital charges are not a valid indicator of a hospital's costs of providing services nor of what is being paid by other payors," as stated in the adoption preamble to the Division's former *Acute Care Inpatient Hospital Fee Guideline*, 22 *Texas Register* 6276. It further states that "Alternative methods of reimbursement were considered... and rejected because they use hospital charges as their basis and allow the hospitals to affect their reimbursement by inflating their charges..." 22 *Texas Register* 6268-6269. Therefore, the use of a hospital's "usual and customary" charges cannot be favorably considered when no other data or documentation was submitted to support that the payment amount being sought is a fair and reasonable reimbursement for the services in dispute.
- The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute.

5. The requestor's position statement asserts that "The carrier has denied this claim maintaining that they did not receive the bills within 95 days. The Carrier's position is without merit. Texas Mutual's own documentation demonstrates that the claim was received in their offices at least by December 14, 2006, well within the 95 day time frame anticipated in the rules." The respondent contends that "The requestor submitted its bill to Texas Mutual where it was reviewed 12/18/06. At that time Texas Mutual concluded the bill was incomplete and it was returned to the requestor 12/18/06... Apparently, the requestor then did nothing with this information. Texas Mutual states this because the same bill was submitted again with the incorrect information where it was received 3/10/07, i.e. past the 95th day... However, even if it was received prior to the 95th day the bill still would have been returned as incomplete." Texas Administrative Code §133.200, effective May 2, 2006, 31 *Texas Register* 3544, states, in pertinent part, that "(a) Upon receipt of medical bills submitted in accordance with §133.10(a)(1) and (2) of this chapter (relating to Required Medical Forms/Formats), an insurance carrier shall evaluate each medical bill for completeness as defined in §133.2 of this chapter (relating to Definitions)... (2) Within 30 days after the day it receives a medical bill that is not complete as defined in §133.2 of this chapter, an insurance carrier shall:... (B) return the bill to the sender, in accordance with subsection (c) of this section... (b) An insurance carrier shall not return a medical bill except as provided in subsection (a) of this section. When returning a medical bill, the insurance carrier shall include a document identifying the reason(s) for returning the bill. The reason(s) related to the procedure or modifier code(s) shall identify the reason(s) by line item. (c) The proper return of an incomplete medical bill in accordance with this section fulfills the insurance carrier's obligations with regard to the incomplete bill." Texas Administrative Code §133.2(2), effective May 2, 2006, 31 *Texas Register* 3544, defines complete medical bill as "A medical bill that contains all required fields as set forth in the billing instructions for the appropriate form specified in §133.10 of this chapter (relating to Required Billing Forms)..." Texas Administrative Code §133.10(d), effective May 2, 2006, 31 *Texas Register* 3544, requires that "All information submitted on required billing forms must be legible and completed in accordance with Division instructions." The Division's DWC FORM-68 instructions for completing the UB-92, revised October 2005, indicate that box 51a is a required field in which the provider should enter the "Provider's Medicare Number, if not available, use state facility license number." Review of the submitted initial medical bill finds that the provider did not enter the provider's Medicare number or state facility license number in box 51, but rather entered the provider's federal tax ID number. Review of the insurance carrier's bill return cover letter dated December 18,

2006 finds that the carrier returned the incomplete bill to the provider, identifying the reason for returning the bill as "Provider (Medicare) number for Box 51 is missing or invalid and cannot be the Federal Tax ID number." The Division concludes that the insurance carrier met the requirements of §133.200 and made a proper return of the initial medical bill, thereby fulfilling the insurance carrier's obligations with regard to the incomplete bill.

6. Texas Administrative Code §133.20(g), effective May 2, 2006, 31 *Texas Register* 3544, provides that "Health care providers may correct and resubmit as a new bill an incomplete bill that has been returned by the insurance carrier." Subsequent to the return of the initial claim submission as an incomplete bill, the provider resubmitted the medical bill as a new claim. The insurance carrier denied disputed services with claim adjustment reason codes 29 – "THE TIME LIMIT FOR FILING HAS EXPIRED" and 731 – "134.801 & 133.20 PROVIDER SHALL NOT SUBMIT A MEDICAL BILL LATER THAN THE 95TH DAY AFTER THE DATE OF SERVICE. FOR SERVICE ON OR AFTER 9/1/05." 28 Texas Administrative Code §133.20(b), effective May 2, 2006, 31 *Texas Register* 3544, states, in pertinent part, that "A health care provider shall not submit a medical bill later than the 95th day after the date the services are provided." Texas Labor Code §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." Review of the submitted information finds no documentation to support that a medical bill for the services in dispute was properly submitted within 95 days from the date the services were provided. The insurance carrier's denial reason is supported. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that the requestor failed to support its position that additional reimbursement is due. Additionally, this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services in dispute.

Authorized Signature

| | | |
|--------------------|---|--------------------------|
| _____ Signature | <u>Grayson Richardson</u> Medical Fee Dispute Resolution Officer | <u>2/17/2012</u> Date |
|--------------------|---|--------------------------|

| | | |
|--------------------|--|---------------|
| _____ Signature | <u>Matt Zurek</u> Executive Deputy Commissioner Health Care Management | _____ Date |
|--------------------|--|---------------|

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.